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CARES Act Overview

June 26, 2020

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Disclaimers

- This is an overview and not meant to capture all elements of the programs.
- The regulations are being added and amended every day.
- As flaws are found in the law there may be amendments.
- The information contained in this PowerPoint is provided for informational purposes only and is not intended to substitute for obtaining accounting, tax, or financial advice from a professional tax planner or financial planner.
- Presentation of the information in this webinar is not intended to create, and receipt does not constitute, a tax planner-client or financial-planner-client relationship.

Coronavirus Relief Legislation

- Phase 1 – Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020
- Phase 2 – Families First Coronavirus Response Act (FFCRA)
- Phase 3 – The Coronavirus Aid, Relief, and Economic Security Act (CARES Act)

Phase 4 - ????????

HEROES ACT- Health and Economic Recovery
Omnibus Emergency Act

Laws vs Regulation

Laws, are the products of written statutes, passed by either the U.S. Congress or state legislatures.

Regulations, are standards and rules adopted by administrative agencies that govern how laws will be enforced.

Families First Coronavirus Response Act

FFCRA

FFCRA <500 employees

- Two sides
 - Employee Rights
 - Tax Credits for Employer (not available for government employers)
- Exceptions
 - for Health Care Providers (using their definition)
 - U.S. Secretary of Labor has the authority to issue regulations exempting small business with fewer than 50 employees from portions of the Act

EMPLOYEE RIGHTS

PAID SICK LEAVE AND EXPANDED FAMILY AND MEDICAL LEAVE UNDER THE FAMILIES FIRST CORONAVIRUS RESPONSE ACT

The Families First Coronavirus Response Act (FFCRA or Act) requires certain employers to provide their employees with paid sick leave and expanded family and medical leave for specified reasons related to COVID-19. These provisions will apply from April 1, 2020 through December 31, 2020.

PAID LEAVE ENTITLEMENTS

Generally, employers covered under the Act must provide employees:

Up to two weeks (80 hours, or a part-time employee's two-week equivalent) of paid sick leave based on the higher of their regular rate of pay, or the applicable state or Federal minimum wage, paid at:

- 100% for qualifying reasons #1-3 below; up to \$511 daily and \$5,110 total;
- ⅔ for qualifying reasons #4 and 5 below; up to \$200 daily and \$2,000 total; and
- Up to 10 weeks more of paid sick leave and expanded family and medical leave paid at ⅓ for qualifying reason #6 below for up to \$200 daily and \$12,000 total.

A part-time employee is eligible for leave for the number of hours that the employee is normally scheduled to work over that period.

ELIGIBLE EMPLOYEES

In general, employees of private sector employers with fewer than 500 employees, and certain public sector employers, are eligible for up to two weeks of fully or partially paid sick leave for COVID-19 related reasons (see below). Employees who have been employed for at least 30 days prior to their leave request may be eligible for up to an additional 10 weeks of partially paid expanded family and medical leave for reason #6 below.

QUALIFYING REASONS FOR LEAVE RELATED TO COVID-19

An employee is entitled to take leave related to COVID-19 if the employee is unable to work, including unable to telework, because the employee:

- | | |
|---|---|
| 1. is subject to a Federal, State, or local quarantine or isolation order related to COVID-19; | 5. is caring for his or her child whose school or place of care is closed (or child care provider is unavailable) due to COVID-19 related reasons; or |
| 2. has been advised by a health care provider to self-quarantine related to COVID-19; | 6. is experiencing any other substantially-similar condition specified by the U.S. Department of Health and Human Services. |
| 3. is experiencing COVID-19 symptoms and is seeking a medical diagnosis; | |
| 4. is caring for an individual subject to an order described in (1) or self-quarantine as described in (2); | |

ENFORCEMENT

The U.S. Department of Labor's Wage and Hour Division (WHD) has the authority to investigate and enforce compliance with the FFCRA. Employers may not discharge, discipline, or otherwise discriminate against any employee who lawfully takes paid sick leave or expanded family and medical leave under the FFCRA, files a complaint, or institutes a proceeding under or related to this Act. Employers in violation of the provisions of the FFCRA will be subject to penalties and enforcement by WHD.



WAGE AND HOUR DIVISION
UNITED STATES DEPARTMENT OF LABOR

For additional information
or to file a complaint:
1-866-487-9243
TTY: 1-877-889-9627

[dol.gov/agencies/whd](https://www.dol.gov/agencies/whd)



WH100-100-0000

Coronavirus Aid, Relief and Economic Security (CARES) Act

CARES Act

- Signed into law -
March 27, 2020
- The CARES Act is 854
pages long
 - Interim rules are coming
out every day



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CARES Act

- Title I – Keeping American Workers Paid and Employed Act (1xxx)
- Title II – Assistance for American Workers, Families and Businesses (2xxx)
- Title III – Supporting America’s Health Care System in the Fight Against the Coronavirus (3xxx)
- Title IV – Economic Stabilization And Assistance to Severely Distressed Sectors of the United States Economy (4xxx)
- Title V – Coronavirus Relief Funds (5001)
- Title VI – Miscellaneous Provisions

Some Sections of CARES

- Section 1102 – Paycheck Protection Program (PPP)
 - <500 employees
- Section 1110 – Economic Injury Disaster Loan (EIDL)
 - <500 employees
- Section 2301 – Employee Retention Payroll Tax Credit
 - Any size, can't combine with PPP
- Section 2302 – Delay in Employer Payroll Taxes
- Section 4003 – Economic Stabilization Act
 - Employees 501-10,000
- Section 5001 – Coronavirus Relief Fund

**Paycheck
Protection Program
& Loan Forgiveness
(PPP)**

Paycheck Protection Program (PPP) – Sec 1102

- Payroll Costs Include
 - Salary, wages, commissions
 - Tips
 - Paid Leave
 - Healthcare payments
 - Retirement benefit payments

Paycheck Protection Program (PPP) – Sec 1102

- Payroll Costs Do NOT include
 - Compensation of an individual employee in excess of an annual salary of \$100,000 as prorated for the covered period
 - Qualified sick leave wages for which a credit was allowed under section 7001 of the FFCRA
 - Qualified family wages for which a credit was allowed under section 7003 of FFCRA

Paycheck Protection Program (PPP) – Sec 1102

- Allowable use of covered loans
 - Payroll costs
 - Payment of interest on any mortgage obligation
 - Rent
 - Utilities
 - Interest on any debt obligations incurred before the covered period

Paycheck Protection Program Flexibility Act

- Recognition that fixes needed to PPP
 - House vote May 28th on “*Paycheck Protection Flexibility Act*”
 - Senate passed June 3rd
 - President signed on June 5th

Deadlines

- Loan Application Deadline remains at June 30, 2020
- You have maximum of 10 months to make Application for Forgiveness (with new Act)

Interim Final Rule on Loan Forgiveness

Payroll Costs can include **hazard pay and bonuses** (subject to \$100k annualized limit)

\$15,835 for 8 weeks or
\$46,154 for 24 weeks

Footnote: Given the 2.5 multiplier in the calculation of maximum PPP loan amount in SBA Form 2483, this per-individual maximum would only be reached if the borrower had reduced its FTEs but was eligible for an exemption (safe harbor) from the resulting reduction in forgiveness

Interim Final Rule on Loan Forgiveness

Caps on owner-employees, self-employed and general partner compensation

- Lesser of 8/52 of 2019 compensation or \$15,385 for 8 weeks or
- 2.5 months worth of 2019 compensation for 24 weeks or \$20,833 for 24 weeks

AICPA Resource

[SBA Paycheck Protection Program resources for CPAs](#)

Includes FAQ and
Loan Forgiveness Calculator

Document

- Document your thoughts at time of application for the loan
- Document your thoughts on bonuses, hazard pay....
- Document your thoughts on which expenses to use for forgiveness
- Document your thoughts at time of application for forgiveness
- Document inter-relation with other funding streams

Must retain information for 6 YEARS

Resources

[CARES Act information](#)

[PPP Frequently Asked Questions FAQ](#)

[PPP Frequently Asked Questions for Faith-Based Organizations Participating in the PPP and EIDL](#)

[Paycheck Protection Program Loan Forgiveness Application and Instructions](#)

Delay in Employer Payroll Taxes

Delay in Payment of Employer Payroll Taxes – Sec 2302

- Payment of employer share of 6.2% payroll tax can be deferred for the period between the date of enactment and December 31, 2020

Delay in Payment of Employer Payroll Taxes – Sec 2302

- 50% of amount deferred due
December 31, 2021
- Remaining 50%, due December 31, 2022
- Self-employed individuals are allowed to delay 50% portion of SE Tax by “short paying” quarterly estimated tax payments

Delay in Payment of Employer Payroll Taxes – FAQ #4

Can an employer that has applied for and received a PPP loan that is not yet forgiven defer deposit and payment of the employer's share of social security tax without incurring failure to deposit and failure to pay penalties?

Yes, through the date the lender issues a decision to forgive the loan

Coronavirus Relief Funds

Coronavirus Relief Fund (5001)

- Funds for States, Tribal Gov't, and units of Local Government
- Are necessary expenditures incurred due to the public health emergency with respect to COVID-19
- Not accounted for in the budget most recently approved as of March 27th
- Incurred period March 1, 2020 and ends December 31, 2020

PA - ODP Announcement 20-070

- Funds must be spent by November 30th
 - Necessary expenditures incurred due to the public health emergency
 - Not accounted for in the budget most recently approved at March 27th
- Intellectual disabilities and autism
 - One-time gross adjustment for Providers of Residential, Respite and Shift Nursing services
- Automatic payment June 24th
- CARES Act section 5001: CFDA # 21.019

Provider Relief Fund

CARES Act Funding for Medicaid and CHIP Providers

- Separate from PA funds released from the CARES Act on June 24th
- Deadline to request funding is July 20th
- Will be at least 2% of reported gross revenue from patient care
 - Final amount determined after the data is submitted
- Must have directly billed Medicaid for healthcare-related services
- Must have provided patient care
- **Maintain careful records of fund use**
- This is not Medicaid payments- emergency federal relief
- Funds will be distributed directly from the Federal Government.

Attestation

Attestation Terms and Conditions*

Payment Recipient must attest to the following within 90 days of receiving payment:

- ✓ Recipient provided, on or after January 31, 2020, diagnosis, testing or care for COVID-19 patients; is not terminated, revoked, or precluded from participating in Medicare, Medicaid or other Federal health care programs
- ✓ Payment must be used to prevent, prepare for, and respond to coronavirus, and reimburse health care related expenses or lost revenues attributable to coronavirus
- ✓ Payment does not reimburse for expenses or losses that have been reimbursed from other sources, or that other sources are obligated to reimburse
- ✓ Recipient shall comply with all reporting and information requirements
- ✓ Recipients consents to public disclosure of payment

CARES Act Funding for Medicaid and CHIP Providers

- PPP loan does not prevent this funding
- No double dipping
- As of Monday funding is subject to Single Audit and sections B,D,E of Uniform Guidance

FAQ on “lost revenue”

HHS encourages the use of funds to cover lost revenue so that providers can respond to the coronavirus public health emergency by maintaining healthcare delivery capacity, such as using Provider Relief Fund payments to cover:

- Employee or contractor payroll
- Employee health insurance
- Rent or mortgage payments
- Equipment lease payments
- Electronic health record licensing fees

You may use any reasonable method of estimating the revenue during March and April 2020 compared to the same period had COVID-19 not appeared.

For example, if you have a budget prepared without taking into account the impact of COVID-19, the estimated lost revenue could be the difference between your budgeted revenue and actual revenue. It would also be reasonable to compare the revenues to the same period last year.

CARES Act Funding for Medicaid and CHIP Providers

<https://www.md-cpas.com/blog/cares-act-funding-now-available-for-medicaid-and-chip-providers>

Application information is available on the HHS website here:

<https://www.hhs.gov/coronavirus/cares-act-provider-relief-fund/for-providers/index.html>

**More Items to
Touch On**

4 Largest CARES programs

Payment Protection Program

(>\$600B)

Federal Agency: SBA

For-profits, NFPs

Is not subject to single audit

CFDA: 59.073

Provider Relief Fund **

(\$175B)

Federal Agency: HHS

For-Profits, NFPs, Governmental
Entities

Is subject to single audit

CFDA: 93.498

Coronavirus Relief Fund

(\$150B)

Federal Agency: Treasury

Governmental Entities and Tribes

Is subject to single audit

CFDA: 21.019

Educational Stabilization

Fund (\$30.75B)

Federal Agency: Education

States, Schools, IHE

Is subject to single audit

CFDA: 84.425

**** Beta.sam.gov indicates the Provider Relief Fund is subject to single audit. Check beta.sam.gov regularly as HHS is still discussing this.**

PPP with Other Awards

- PPP loan forgiveness is based on specified expenditures only and economic uncertainty
 - Does not look to other revenue streams
- M-20-26 – Issued June 18, 2020
 - *Payroll costs paid with the Paycheck Protection Program loans or any other Federal CARES Act programs must not be also charged to current Federal awards as it would result in the Federal government paying for the same expenditures twice*

Vendor fee for service is not the same as a federal grant

Financial Statement Presentation-NPO

- This is a loan
- If it is forgiven it becomes a grant
 - Conditional grant/refundable advance
- CPEA (AICPA) and NACUBO are suggesting that conditions would be substantially met when qualifying PPP expenses occur
 - If you have no reduction for FTE or wage reduction

Financial Statement Presentation - Business

Notes from CPEA (AICPA)

- This is a loan
- If it is forgiven it becomes a grant (Absence of guidance in for-profit world)
 - FASB ASC 958-605 follow NPO accounting
 - IAS 20 model on government assistance
 - FASB ASC 470 debt model
 - FASB ASC 450-30 gain contingency model

Revenue for tax purposes

The revenue is not taxable

On Thursday, April 30th the IRS issued a formal notice stating “no deduction is allowed under the Internal Revenue Code for expense that is otherwise deductible is the payment of the expense results in forgiveness of a covered loan pursuant to section 1106(b) of the CARES Act”

Note: this may change in HEROES Act

Parting Words



The Rules Keep Changing

Document your thoughts
and track expenses

Take your time

Keep Safe

Questions?



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